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August 18, 2014

By ECF

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Honorable Katherine B. Forrest
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 730
New York, New York 10007

USDC SDNY
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**Re: In re 650 Fifth Avenue and Related Properties,
08 Civ. 10934 (KBF)**

Dear Judge Forrest:

We respectfully submit this letter on behalf of the Alavi Foundation and 650 Fifth Avenue Company (together, "Claimants") in response to the Hegnas' August 7, 2014 letter requesting that the Court issue a scheduling order "allowing the Hegnas to proceed on their pending show cause order." The Court should deny the Hegnas' request because an additional scheduling order allowing the Hegnas to proceed is not necessary or appropriate at this time.

The Hegnas do not explain the manner in which they would like to proceed or what issues they believe are outstanding. In reality, all issues relevant to the Hegnas' claims have already been resolved, are already subject to a briefing schedule, or are premature for the Court to address until after Claimants' pending appeal is resolved.

Claims previously resolved: The merits of the Hegnas' turnover claims have already been decided by the Court's March 2014 decision granting the motions for summary judgment filed by the Hegnas and other judgment creditors. (ECF 1102, 1125.) The Court has also already determined that the Hegnas are not innocent owners of the defendant-*in-rem* properties in the forfeiture action. (ECF 1142, 1174.)

Issues subject to previously-entered scheduling order: The Court has already set a briefing schedule to resolve disputes concerning the priority of the Hegnas' claims vis-à-vis the other judgment creditors. (ECF 1150.) That motion will be fully briefed by October 10, 2014.¹

No other issues ripe for resolution: It is unclear what other steps the Hegnas believe are necessary before the Court certifies the remainder of this action and related cases for appeal to the Second Circuit. To the extent the Hegnas seek attachment and sale of the building

¹ To the extent the Hegnas wish to brief the priority of their claims vis-à-vis the Government on the same schedule, Claimants take no position.

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at 650 Fifth Avenue or any other property, Claimants have previously explained at length why a sale is inappropriate (*see, e.g.*, ECF 431-20), and in any event, such an order would be contrary to the agreements of the parties and the Court's prior orders that no sale will occur until after Claimants' pending appeal is resolved. (*See, e.g.*, 5/2/14 Tr. at 19-21 ("Nothing is going to happen to the properties in terms of selling the properties or otherwise dramatically changing the properties until the resolution of the appeal.").)

Because the Court has already entered a scheduling order addressing the claim priority issues and any potential sale of the relevant properties will await resolution of Claimants' appeals, no additional scheduling order with respect to the Hegnas' show cause order is appropriate. Thank you for your consideration.

Respectfully submitted,

/s/ Daniel S. Ruzumna
Daniel S. Ruzumna

cc: Counsel of Record

ORDERED:

The Hegnas' motion to proceed with an order to show cause is denied. The parties shall follow the scheduling order previously issued.

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written over a faint, larger signature that also appears to read "K. B. Forrest".

KATHERINE B. FORREST
United States District Judge
08/21/2014